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NEW YORK, NY 10038

In re Application of :
CHACQUES, Juan Carlos et al. :
Application No.: 10/519,974 :
PCT No.: PCT/ES03/ 00285 : DECISION ON
Int. Filing Date: 11 June 2003 :
Priority Date: 02 July 2002 : PETITION UNDER
Attorney's Docket No.: 40140/00701 :
For: Medium For Culturing Autologous Human Progenitor : 37 CFR 1.181
Stem Cells And Applications Thereof

This communication is issued in response to applicants' "Request To Correct Inventorship Under 37 CFR 1.48(A)," filed 10 July 2007. Applicants' submission has been treated as a petition under 37 CFR 1.181 requesting that the inventorship of the instant application be Juan Carlos Chachques, Felipe Prosper Cardoso and Jesus Herreros Gonzalez.

BACKGROUND

On 11 June 2003, applicant filed international application PCT/ES03/ 00285, claiming a priority date of 02 July 2002. The thirty-month period for paying the basic national fee in the United States expired at midnight on 02 January 2005.

On 30 December 2004, applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied, *inter alia*, by the requisite basic national fee.

On 21 June 2005, the Office mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration of the inventors in compliance with 37 CFR 1.497(a)-(b) and the surcharge for late filing of the oath or declaration were required.

On 04 January 2006, applicants filed a response to the Notification of Missing Requirements including, an executed declaration by inventors Felipe Prosper Cardoso and Jesus Herreros Gonzalez, the surcharge for late filing of the declaration and a five-month extension fee.

On 31 January 2006, the Office mailed a Notice of Acceptance (Form PCT/DO/EO/903) granting a date under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) of 04 January 2006.

On 10 July 2007, applicants filed by facsimile the instant petition to add Juan Carlos Chachques as an inventor in the instant application and a credit card payment form authorizing payment of a petition fee of \$130.

On 16 July 2007, applicants filed by mail a duplicate of the papers originally filed 10 July 2007 requesting the addition of Juan Carlos Chachques as an inventor in the instant application.

DISCUSSION

Under 37 CFR 1.497, the declaration must be made by all of the actual inventors in the international application. A review of the papers in the instant application show that the inventive entity set forth in the international application is Juan Carlos Chachques, Felipe Prosper Cardoso and Jesus Herreros Gonzalez. Therefore, the inventive entity in the instant application is the same as that of the international application.

The submitted declarations on 04 January 2006 and 10 July 2007 do not comply with 37 CFR 1.497(a)-(b) because the declarations do not list all the inventors (See MPEP §605.04(a)(I): “[E]ach oath or declaration executed by an inventor must contain a complete listing of all inventors so as to clearly indicate what each inventor believes to be the appropriate inventive entity.”). Applicants are required to provide a copy of the complete declaration executed by each of the cooperating inventors. Hence, the submitted declaration in the instant application does not comply with 37 CFR 1.497(a)-(b).

With regard to the petition fee of \$130, applied to applicants' credit card on 17 July 2007, because the inventive entity in the international application has not changed, a petition fee is not required. Therefore, the \$130 fee is refunded to applicants' Deposit Account No. 50-1492.

CONCLUSION

For the reasons stated above, the petition under 37 C.F.R. 1.181 is **DISMISSED** without prejudice.

The Notice of Acceptance (Form PCT/DO/EO/903) mailed 31 January 2006 is **VACATED**.

This application is being forwarded to the National Stage Processing Division of the Office of the PCT Operations for continued processing. A Notification of Defective Response (Form PCT/DO/EO/916) will be mailed.

If reconsideration on the merits of this petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. A proper response is a complete declaration executed by each of the cooperating inventors.

Any further correspondence with respect to this matter should be addressed to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, VA 22313-1450, with the contents of the letter marked to the attention of the PCT Legal Office.



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